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OFFICE OF PETITIONS

In re Application of :
Mark S. Abad et al. :
Application No. 09/696,664 :
Filed: October 25, 2000 : DECISION ON PETITION
Attorney Docket No. 38- : UNDER 37 C.F.R. §1.181(A)
21(51721)B :
Title: NUCLEIC ACID MOLECULES :
AND OTHER MOLECULES ASSOCIATED :
WITH PLANTS :

This is a decision on the petition under 37 C.F.R. §1.181(a) to withdraw the holding of abandonment, filed on March 13, 2006.

On February 1, 2006, a decision was mailed by the Board for Patent Appeals and Interferences which indicated that Petitioner expressly abandoned this application upon the entry of an amendment filed on January 6, 2006. The express abandonment was filed on January 17, 2006, and a continuation application was filed on January 12, 2006 (subsequently assigned application number 11/330,364.)

On February 27, 2006, a notice of abandonment was mailed, erroneously indicating that the application had gone abandoned due to the decision of the Board, and the expiration of the period for seeking court review.

The application went abandoned via the express abandonment which was filed on January 17, 2006, and not due to the decision of the Board. As such, that portion of the notice of abandonment was mailed in error. Although the notice was correct in stating that the application had gone abandoned, it contained an incorrect reason for the same: box number 6 was erroneously checked, instead of box number 4.

Petitioner has requested that the amendment of January 6, 2006 be entered. Petitioner has further noted that the amendment filed on January 6, 2006 contains typographical errors, and a supplemental amendment was received with the present petition, to correct these errors. Petitioner wishes to have the holding of abandonment be withdrawn so that the amendment which was filed with the present petition can be entered, and another express abandonment will then be submitted at a later time.

The petition is **GRANTED-IN-PART**.

The amendment of January 6, 2006 has been entered.

The portion of the notice of abandonment which indicates that the application went abandoned due to the decision by the Board is hereby WITHDRAWN. It is noted in passing that the notice was correct in stating that the application is abandoned.

The present application went abandoned on January 17, 2006 due to Petitioner's express abandonment. As such, the amendment which was submitted with the present petition will not be entered as Petitioner has previously expressly abandoned this application, and amendments cannot be made subsequent to abandonment.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.



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